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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,707	12/29/2003	Erich Bott	ZTP01P15110	5890
24131	7590	09/06/2005	EXAMINER	
LERNER AND GREENBERG, PA P O BOX 2480 HOLLYWOOD, FL 33022-2480			BELLINGER, JASON R	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/747,707	Applicant(s) BOTT ET AL.	
	Examiner Jason R. Bellinger	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 9-11, 14, 15 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 4, 8, 12, 13 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 29 June 2001. It is noted, however, that applicant has not filed a certified copy of the DE 10131696.8 application as required by 35 U.S.C. 119(b).

Drawings

2. The drawings were received on 28 June 2005. These drawings are not approved. The drawings do not comply with Rule 1.121, due to the fact that they lack a proper heading. Furthermore, the drawings do not clearly show the limitations set forth in claims 2-3, as described in the previous office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 2-3, 6-7, 10-11, and 14-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is indefinite due to the fact that it is unclear how the reinforcing rib can extend "from at least one of the side surfaces of said wall and being in contact with neither said hub nor said running ring in a non-loaded state of said running ring" as set forth in lines 12-14, and also extend "from said hub in a direction of said wall and is not in contact with said wall in the non-loaded state of said running roller" as set forth in

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lines 15-17. It is unclear how the reinforcing rib can both extend from and yet not contact the wall, while also both not contacting and yet extending from the hub.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Markow. In Figure 4, Markow shows a roller 210 having a roller body with a hub 212, a running ring 216, and a wall 260 connecting the running ring 216 to the hub 212. The wall 260 includes two side surfaces and a curved cross section between the running ring 216 and the hub 212.

At least one reinforcing rib 218 extends from one of the two side surfaces of the wall 260, and is disposed between the wall 260 and at least one of the hub 212 and the running ring 216 (in this case, the wall and the running ring). The rib 218 includes a free end disposed adjacent and spaced apart from the running ring 216, and is in contact with neither the hub 212 nor the running ring 216 in a non-loaded state of the roller 210.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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8. Claims 1, 5, 9, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markow in view of Kent. Markow contains all of the limitations as set forth in paragraph 6 above, and further shows the running ring 216 having a convex. The reinforcing rib 218 would contact running ring 216 in a loaded state of the roller 210. While Markow does not show the wall having an S-shaped or Z-shaped cross-section, it would have been obvious to one of ordinary skill in the art at the time of the invention to form the wall with any shape suitable for the amount of load the wall is required to absorb, dependent upon the material used, weight requirements, etc.

Markow does not show the roller being a plurality of rollers attached to a vacuum cleaner. Kent teaches the use of a vacuum cleaner having a housing 11 and a plurality of rollers 46. Therefore from this teaching, it would have been obvious to provide a plurality of rollers as shown by Markow on a vacuum cleaner, in order to provide a resilient cushioning means for the vacuum. Namely, the resilient nature of the roller shown in Markow would absorb shocks and vibration as the vacuum traverses a surface, thus reducing undue strain on the vacuum cleaner housing.

Allowable Subject Matter

9. Claims 2-3, 6-7, 10-11, and 14-15 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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10. Claims 4, 8, 12-13, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

12. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the wheel/roller of Markow meets all of the limitations of the claims, and thus would function in the same manner as the roller of the invention, and would thus solve the same problems.

13. In response to applicant's argument that wheels for use of motor vehicles is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for

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rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

In this case, the cited vehicle wheels, specifically Markow, are drawn to non-pneumatic configurations providing solutions for absorbing shocks and/or load support. Given the fact that the wheel of Markow functions in the same manner as, and meets the limitations of the roller wheel of the present invention, one of ordinary skill in the art would find the teachings of Markow pertinent. Furthermore, the size of a wheel is dependent upon its intended use. Thus a wheel having the configuration of Markow intended to be used on a vacuum would be sized and arranged to fit on a vacuum.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason R. Bellinger whose telephone number is 571-272-6680. The examiner can normally be reached on Mon - Thurs (9:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason R Bellinger
Examiner
Art Unit 3617

jrb 


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